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An Act To Amend Criminal Laws against Domestic Violence To Ensure Appropriate Recognition of Prior Convictions

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Public Law 2007, chapter 436 created the crimes of domestic violence assault, domestic violence criminal threatening, domestic violence terrorizing, domestic violence stalking and domestic violence reckless conduct; and

Whereas, each of the domestic violence crimes carries an enhanced penalty if committed more than once; and

Whereas, this legislation clarifies that the enhanced penalty applies if the person commits a domestic violence crime created in chapter 436 after having been convicted of the crime of assault, criminal threatening, terrorizing or reckless conduct against a family or household member; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 17-A MRSA §207-A, sub-§1, ¶B, as enacted by PL 2007, c. 436, §1 and affected by §7, is amended to read:

B. The person violates paragraph A and at the time of the offense the person:

(1) ~~The person has~~Has one or more prior convictions for violating paragraph A or for violating section 209-A, 210-B, 210-C or 211-A or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 209-A, 210-B, 210-C or 211-A in another jurisdiction;:

(a) Violating paragraph A;

(b) Violating section 207, 209, 210, 210-A or 211 when the victim was a family or household member as defined in Title 19-A, section 4002, subsection 4;

(c) Violating section 209-A, 210-B, 210-C or 211-A; or

(d) Engaging in conduct substantially similar to that contained in paragraph A or in section 209-A, 210-B, 210-C or 211-A in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction; or

(3) Has one or more prior convictions under Title 15, section 1092 for violating conditions specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or subparagraph (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4.

Violation of this paragraph is a Class C crime.

Sec. 2. 17-A MRSA §209-A, sub-§1, ¶B, as enacted by PL 2007, c. 436, §2 and affected by §7, is amended to read:

B. The person violates paragraph A and at the time of the offense the person:

(1) ~~The person has~~Has one or more prior convictions for violating ~~paragraph A or for violating section 207-A, 210-B, 210-C or 211-A or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 210-B, 210-C or 211-A in another jurisdiction;~~

(a) Violating paragraph A;

(b) Violating section 207, 209, 210, 210-A or 211 when the victim was a family or household member as defined in Title 19-A, section 4002, subsection 4;

(c) Violating section 207-A, 210-B, 210-C or 211-A; or

(d) Engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 210-B, 210-C or 211-A in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction; or

(3) Has one or more prior convictions under Title 15, section 1092 for violating conditions specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or subparagraph (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4.

Violation of this paragraph is a Class C crime.

Sec. 3. 17-A MRSA §210-B, sub-§1, ¶B, as enacted by PL 2007, c. 436, §3 and affected by §7, is amended to read:

B. The person violates paragraph A and at the time of the offense the person:

(1) ~~The person has~~Has one or more prior convictions for violating ~~paragraph A or for violating section 207-A, 209-A, 210-C or 211-A or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 209-A, 210-C or 211-A in another jurisdiction;~~

(a) Violating paragraph A;

(b) Violating section 207, 209, 210, 210-A or 211 when the victim was a family or household member as defined in Title 19-A, section 4002, subsection 4;

(c) Violating section 207-A, 209-A, 210-C or 211-A; or

(d) Engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 209-A, 210-C or 211-A in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction; or

(3) Has one or more prior convictions under Title 15, section 1092 for violating conditions specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or subparagraph (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4.

Violation of this paragraph is a Class C crime.

Sec. 4. 17-A MRSA §210-C, sub-§1, ¶B, as enacted by PL 2007, c. 436, §4 and affected by §7, is amended to read:

B. The person violates paragraph A and at the time of the offense the person:

(1) ~~The person has~~Has one or more prior convictions for violating paragraph A or for violating section 207-A, 209-A, 210-B or 211-A or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 209-A, 210-B or 211-A in another jurisdiction;:

(a) Violating paragraph A;

(b) Violating section 207, 209, 210, 210-A or 211 when the victim was a family or household member as defined in Title 19-A, section 4002, subsection 4;

(c) Violating section 207-A, 209-A, 210-B or 211-A; or

(d) Engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 209-A, 210-B or 211-A in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction; or

(3) Has one or more prior convictions under Title 15, section 1092 for violating conditions specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or subparagraph (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4.

Violation of this paragraph is a Class C crime.

Sec. 5. 17-A MRSA §211-A, sub-§1, ¶B, as enacted by PL 2007, c. 436, §5 and affected by §7, is amended to read:

B. The person violates paragraph A and at the time of the offense the person:

(1) ~~The person has~~Has one or more prior convictions for violating paragraph A or for violating section 207-A, 209-A, 210-B or 210-C or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 209-A, 210-B or 210-C in another jurisdiction;:

(a) Violating paragraph A;

(b) Violating section 207, 209, 210, 210-A or 211 when the victim was a family or household member as defined in Title 19-A, section 4002, subsection 4;

(c) Violating section 207-A, 209-A, 210-B or 210-C; or

(d) Engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 209-A, 210-B or 210-C in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction; or

(3) Has one or more prior convictions under Title 15, section 1092 for violating conditions specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or subparagraph (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4.

Violation of this paragraph is a Class C crime.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

Public Law 2007, chapter 436 created the crimes of domestic violence assault, domestic violence criminal threatening, domestic violence terrorizing, domestic violence stalking and domestic violence reckless conduct. A violation of one of these domestic violence crimes is a Class D crime. A person who commits one of these domestic violence crimes more than once is guilty of a Class C crime.

This bill clarifies that the enhanced penalty also applies if the person commits a domestic violence crime after being convicted of the crime of assault, criminal threatening, terrorizing or reckless conduct against a family or household member.